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7                   **UNITED STATES DISTRICT COURT**  
8                   **DISTRICT OF NEVADA**  
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10 24 HOUR FITNESS USA, INC., *et al.*,

11                  Petitioners,

Case No. 2:11-CV-01956-KJD-CWH

12 v.

**ORDER**

13 MICHAEL MCMAHAON,

14                  Respondent.

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16                  Petitioners' Petition to Compel Arbitration (#1) was filed on December 7, 2011. Federal  
17 Rule of Civil Procedure 4(m) requires service of summons and complaint to be made upon a  
18 respondent 120 days after the filing of the complaint or petition. The 120 day time period for  
19 effecting service of the summons and complaint upon Respondent expired no later than April 5,  
20 2012. On January 24, 2012, Petitioners filed "Proof of Service by Personal Delivery" (#6). The  
21 affidavit asserted that the civil cover sheet, certificate of interested parties, petition to compel  
22 arbitration and an accompanying declaration were served on what appears to be an attorney.  
23 However, the proof of service did not disclose the attorney's relationship to the Respondent.  
24 Furthermore, the proof of service did not mention service of a summons.

25                  On May 4, 2012, Petitioners filed a Proposed Summons (#7) which was subsequently issued  
26 (#8). The issued summons identified Respondent as the party to be served with an address different

1 than that described in the proof of service (#6). It appears that Petitioners have not yet adequately  
2 served Respondent.

3 Accordingly, IT IS HEREBY ORDERED that Petitioners shall have up to and including June  
4 28, 2012 to file proof of service of the summons and complaint within the allowed time. If  
5 Petitioners fail to respond or to file proof of service within the allowed time, the Court will dismiss  
6 the complaint without prejudice against Respondent in accordance with Federal Rule of Civil  
7 Procedure 4(m).

8 DATED this 13<sup>TH</sup> day of June 2012.

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12 Kent J. Dawson  
13 United States District Judge  
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